

William Choate and Barbara Boras

v.

Town of Hampstead

Docket No.: 7357-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$159,600 (land, \$101,500 {minus a \$37,700 current use credit}; buildings, \$95,800) on a 12.3 acre lot (10+ acres in current use) with a two-story house and three barns (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) a neighbor's house is worth significantly more than the subject yet assessed less;
- (2) the quality index on the house should be 1.1 not 1.3 to be consistent with

comparable homes;

(3) the normal depreciation assigned by the Town to the building is too low and does not take into account the age of the house;

(4) the physical depreciation needs to be taken into account because the sills around the house and the back door need to be replaced;

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(5) there should be a temporary depreciation adjustment because some of the rooms in the house are not habitable (no electrical outlets, no heat, no insulation and one room had only 2/3 of a ceiling); and

(6) the Property could have probably sold in 1989 for between \$140,000 and \$150,000.

The Town argued:

(1) further review of the Property indicated the value was fair but there was a concern about the quality adjustment of A3 on the house which should be changed to A1 reducing the building value to \$72,600;

(2) the lack of electrical outlets and heat in some of the rooms was addressed through functional depreciation and a temporary depreciation was applied for portions under construction; and

(3) a revised assessment of \$136,400 (land, \$101,500 {minus a \$37,700 current use credit}, buildings, \$72,600) is recommended.

Board's Rulings

As stated above, the focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one perfect assessment of a property. Rather, there is a range of acceptable assessments for each property. The question is thus whether the assessment falls within a

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reasonable range from a median ratio as indicated by an acceptable coefficient of dispersion following a good reassessment, considering the property involved and other assessments in the municipality. See Wise Shoe Co. v. Town of Exeter, 1991 N.H. 700, 702 (1979); Brickman v. City of Manchester, 119 N.H. 919.

The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers should have made a showing of the Property's fair market value. This value would then have been

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compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

The Town failed to submit any sales to support the assessment. Since the Town was recently revalued, the Town should have submitted sales for the board's consideration. RSA 75:1 requires that assessments be in line with market value. Therefore, providing sales is essential for the board to compare the Property's assessment with fair market value and the general level of assessment in the municipality. See Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986).

Based on the evidence, we find the correct assessment should be \$136,400 (land \$101,500 {minus a \$37,700 current use credit} and building \$72,600). This assessment is ordered because the board agrees that the quality adjustment on the home should be graded A1. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).

If the taxes have been paid, the amount paid on the value in excess of \$136,400 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

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George Twigg, III, Chairman _____

Michele E. LeBrun, Member _____

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to William Choate and Barbara Boras, Taxpayers; and Chairman, Selectmen of Hampstead.

Dated: October 6, 1992

Melanie J. Ekstrom, Deputy Clerk

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